

House Bill 202 (AS PASSED HOUSE AND SENATE)

By: Representatives Maxwell of the 17th, Meadows of the 5th, Golick of the 34th, and Benton of the 31st

A BILL TO BE ENTITLED
AN ACT

To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to define certain terms; to provide for a maximum compensation to be used for computing contributions and benefits; to provide for the payment of benefits; to provide for rollover of certain funds; to provide for a limit on benefits; to provide for application of service credits; to provide for the holding of pension funds in trust; to provide for a normal retirement age; to provide for vesting; to ratify certain prior changes to public retirement plans; to provide for related changes in public retirement law to comply with federal law and regulations; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is amended by revising Code Section 47-1-10, relating to adoption, amendment, or repeal of rules by boards of trustees of state retirement or pension systems, procedure, immediate adoption, and filing of rules with Secretary of State, by adding a new subsection to read as follows:

"(f) Each board of trustees shall be authorized to adopt rules and regulations which are appropriate or necessary to maintain the qualified status of its respective public retirement and pension system under Sections 401(a) and 414(d) of the federal Internal Revenue Code and such other applicable sections of the federal Internal Revenue Code."

SECTION 2.

Said title is further amended by revising subsection (b) of Code Section 47-1-13, relating to maximum compensation used in computing employee and employer contributions, as follows:

"(b) Any other provision of law to the contrary notwithstanding, the maximum compensation used in computing employee and employer contributions to or benefits due from any public retirement or pension system shall be the maximum compensation set forth in Section 401(a)(17) of the federal Internal Revenue Code, as now or hereafter amended; provided, however, that pursuant to Section 13212(d)(3)(A) of the federal Omnibus Budget Reconciliation Act of 1993 and the regulations issued under such section, eligible members are not subject to the limits of Section 401(a)(17) of the federal Internal Revenue Code, and the maximum compensation used for such computations for eligible ~~employees~~ members shall be the maximum amount allowed by the respective retirement or pension system to be so used on July 1, 1993."

SECTION 3.

Said title is further amended by adding a new Code section to read as follows:

"47-1-13.1.

(a) As used in this Code section the term:

(1) 'Annual compensation' means compensation during the determination period. Such term shall include any cost of living adjustment in effect for a calendar year if the determination period begins with or within such calendar year.

(2) 'Determination period' means the plan year or such other consecutive 12 month period over which compensation is otherwise determined under the public retirement or pension system.

(b) The annual compensation of a plan member during any plan year beginning on or after January 1, 2002, which exceeds \$200,000.00, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the federal Internal Revenue Code, shall not be taken into account in determining benefits or contributions due from the public retirement or pension system for any plan year. If the determination period consists of fewer than 12 months, the annual compensation limit shall be an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a plan member's contributions or benefits for the current plan year, the compensation for such prior determination period shall be subject to the applicable annual compensation limit in effect for the prior period.

(c) The annual compensation of a plan member during any plan year beginning on and after January 1, 1996, and before January 1, 2002, which exceeds \$150,000.00, as indexed as provided in Section 401(a)(17)(B) of the federal Internal Revenue Code, shall be

59 disregarded for purposes of computing contributions to or benefits due from the public
60 retirement or pension system."

61 **SECTION 4.**

62 Said title is further amended by revising Code Section 47-1-80, relating to distributions to
63 conform to regulations issued under the Internal Revenue Code, as follows:

64 "47-1-80.

65 Notwithstanding any other provision of this title to the contrary, distributions from any
66 public retirement or pension system shall conform to ~~the regulations issued under a~~
67 good-faith interpretation of Section 401(a)(9) of the federal Internal Revenue Code and the
68 regulations promulgated pursuant to such section as applicable to a governmental plan
69 within the meaning of Section 414(d) of the federal Internal Revenue Code and shall be
70 implemented in accordance with the grandfathering provisions of such regulations
71 applicable to annuity option distributions in effect on April 17, 2001."

72 **SECTION 5.**

73 Said title is further amended by adding a new Code section to read as follows:

74 "47-1-80.1.

75 (a) Notwithstanding any other provision of this title to the contrary, any public retirement
76 or pension system shall be subject to the following provisions:

77 (1)(A) Benefits shall begin by the required beginning date, which is the later of April
78 1 of the calendar year following the calendar year in which the plan member reaches
79 70 1/2 years of age or April 1 of the calendar year in which the plan member terminates
80 employment. If a plan member fails to apply for retirement benefits by the required
81 beginning date, the applicable public retirement or pension system shall begin
82 distribution of the benefit as required by Section 401(a)(9) of the federal Internal
83 Revenue Code.

84 (B) Notwithstanding the provisions of subparagraph (A) of this paragraph, for any plan
85 member who was entitled to receive a benefit under the public retirement or pension as
86 of December 31, 1996, and attained the age of 70 1/2 on or before December 31, 1998,
87 the required beginning date shall be deemed to be April 1 following the calendar year
88 in which the member attained the age of 70 1/2, regardless of whether the member was
89 then employed by the employer;

90 (2) A plan member's entire interest shall be distributed over the plan member's life or the
91 lives of the plan member and a designated beneficiary or over a period not extending
92 beyond the life expectancy of the plan member or the life expectancy of the plan member
93 and his or her designated beneficiary;

(3) The life expectancy of a plan member, the plan member's spouse, or the plan member's designated beneficiary shall not be recalculated after the initial determination for purposes of determining benefits;

(4) If a plan member dies after the required distribution of benefits has begun, the remaining portion of the plan member's interest shall be distributed at least as rapidly as under the method of distribution before the plan member's death and no longer than the remaining period over which the distribution commenced; and

(5) If a plan member dies before the required distribution of the plan member's benefits has begun, the plan member's entire interest shall be either distributed in accordance with federal regulations over the life or the life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year immediately following the calendar year of the plan member's death or distributed by December 31 of the calendar year containing the fifth anniversary of the plan member's death.

(b) The amount of an annuity paid to a plan member's designated beneficiary shall not exceed the maximum determined under the incidental death benefit requirements of the federal Internal Revenue Code.

(c) The death and disability benefits provided by the plan shall be limited by the incidental benefit rule set forth in Section 401(a)(9)(G) of the federal Internal Revenue Code and Federal Treasury Regulation Section 1.401-1(b)(1)(i) or any successor to such regulation."

SECTION 6.

Said title is further amended by revising Code Section 47-1-81, relating to election to have a portion of an eligible rollover distribution paid to an eligible retirement plan under federal law, as follows:

"47-1-81.

(a) As used in this Code section, the term:

(1) 'Direct rollover' means a payment by the public retirement or pension system subject to this title to the eligible retirement plan specified by the distributee or to the surviving spouse of the distributee.

(2) 'Distributee' means:

(A) An employee;

(B) A former employee;

(C) The employee or former employee's surviving spouse; or

(D) A nonspouse beneficiary who is a designated beneficiary as defined in Section 401(a)(9)(E) of the federal Internal Revenue Code.

(3) 'Eligible retirement plan' means any of the following that accepts the distributee's eligible rollover distribution:

(A) An individual retirement account described in Section 408(a) of the federal Internal Revenue Code;

(B) An individual retirement annuity described in Section 408(b) of the federal Internal Revenue Code;

(C) An annuity plan described in Section 403(a) of the federal Internal Revenue Code;

(D) A qualified trust described in Section 401(a) of the federal Internal Revenue Code;

(E) An annuity contract described in Section 403(b) of the federal Internal Revenue Code.

(F) An eligible deferred compensation plan under Section 457(b) of the federal Internal Revenue Code that is maintained by a state, political subdivision or agency or instrumentality of a state, or a political subdivision of a state and which agrees to separately account for amounts transferred into that plan from the public retirement or pension system under this title; and

(G) A Roth IRA described in Section 408A of the federal Internal Revenue Code.

(4) 'Eligible rollover distribution' means any distribution of all or any portion of the balance to the credit of the distributee; provided, however, such term shall not include:

(A) Any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(B) Any distribution to the extent such distribution is required under Section 401(a)(9) of the federal Internal Revenue Code;

(C) The portion of any distribution that is not includable in gross income; or

(D) Any other distribution that is reasonably expected to total less than \$200.00 during the year.

Such term shall include a distribution to a surviving spouse made on or after January 1, 2002.

(b) Notwithstanding any other provisions of this title to the contrary that would otherwise limit a person's election under this Code section, a member of a retirement or pension system subject to this title may elect, at the time and in the manner prescribed by the board of trustees of such system, to have any portion of an eligible rollover distribution, as such term is defined in Section 402(c) of the federal Internal Revenue Code, paid directly to an eligible retirement plan, as such term is defined in Section 402(c) of the federal Internal Revenue Code, specified by the person in a direct rollover.

(c) A portion of a distribution made on or after January 1, 2002, shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee

contributions that are not includable in gross income; provided, however, that such portion may be transferred only to:

(1) An individual retirement account or annuity described in Section 408(a) or (b) of the federal Internal Revenue Code;

(2) A qualified defined contribution plan described in Sections 401(a) or 403(a) of the federal Internal Revenue Code;

(3) A qualified defined benefit plan described in Section 401(a) of the federal Internal Revenue Code; or

(4) An annuity contract described in Section 403(b) of the federal Internal Revenue Code which agrees to account separately for amounts so transferred, and earnings thereon, including accounting separately for the portion of such distribution that is includable in gross income and the portion that is not so includable.

(d) Notwithstanding any other provision of this title to the contrary, a nonspouse designated beneficiary may roll over the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an inherited individual retirement account or annuity."

SECTION 7.

Said title is further amended by revising Code Section 47-1-82, relating to maximum benefits limited to that allowed by federal law, as follows:

"47-1-82.

(a) As used in this Code section, the term:

(1) 'Annual benefit' means a retirement benefit under the public retirement or pension system which is payable annually in the form of a straight life annuity.

(2) 'Applicable mortality table' means the table prescribed by the secretary of the treasury of the United States in Revenue Ruling 95-6 or any successor thereto which prescribes the mortality table to be applied pursuant to Section 415(b)(2)(E)(v) of the federal Internal Revenue Code. To the extent that a forfeiture does not occur upon death, the mortality decrement may be ignored prior to age 62 and shall be ignored after social security retirement age, as prescribed by federal Internal Revenue Service Notice 83-10, Q&A G-3 and G-4, or any successor thereto.

(3) 'Compensation' means, for purposes of applying the limitations of Section 415 of the federal Internal Revenue Code and for no other purpose, a plan member's wages as defined in Section 3401(a) of the federal Internal Revenue Code (wages subject to income tax withholding at the source, but without regard to exceptions contained in Section 3401(a) of the federal Internal Revenue Code for wages based on the nature or

location of the employment or the services performed). The term shall also include the following:

(A) For limitation years beginning on or after December 31, 1997, for purposes of applying the limitations of Section 415 of the federal Internal Revenue Code, amounts that would otherwise be included in compensation but for an election under Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), and 457(b) of the federal Internal Revenue Code;

(B) For limitation years beginning after December 31, 2000, any elective amounts that are not includable in the plan member's gross income by reason of Section 132(f) of the federal Internal Revenue Code, relating to qualified transportation plan; and

(C) For limitation years beginning on and after January 1, 2007, compensation paid by the later of 2 1/2 months after the plan member's severance from employment or the end of the limitation year that includes the date of the plan member's severance from employment if:

(i) The payment is regular compensation for services during the plan member's regular working hours or compensation for services outside the plan member's regular working hours, including without limitation overtime or shift differential, commissions, bonuses, or other similar payments, and, absent a severance from employment, the payment would have been paid to the plan member while he or she continued in employment with the employer; or

(ii) The payment is for unused accrued bona fide sick leave, vacation leave, or the leave that the member would have been able to use if employment had continued.

'Compensation' also includes back pay, within the meaning of Treasury Regulation Section 1.415 (c)-2(g)(8), for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included in this definition.

(4) 'Dollar limitation' means the maximum permissible amount as such term is defined in paragraph (6) of this subsection.

(5) 'Limitation year' means the plan year.

(6) 'Maximum permissible amount' means:

(A) For limitation years beginning prior to January 1, 1995, 100 percent of the plan member's average compensation for the period of three consecutive years during which the plan member has the highest aggregate compensation from the employer;

(B) For limitation years beginning on and after January 1, 1995, but before January 1, 2001, \$90,000; and

(C) For limitation years beginning on and after January 1, 2002, \$160,000.00, as adjusted by the secretary of the treasury of the United States for each calendar year,

with the new limitation to apply to limitation years ending within the calendar year of the date of the adjustment.

(7) 'Nonannuity benefit form' means a benefit, whether a normal form or an optional form, which is not payable in a straight life annuity for the life of the plan member.

(b) Notwithstanding any other provisions of this title to the contrary, the maximum benefit payable to any active or retired member or beneficiary of a retirement or pension system subject to this title shall be limited to such extent as may be necessary to conform to the requirements of Section 415 of the federal Internal Revenue Code for a qualified retirement plan.

(c) If a plan member's benefit is payable in a nonannuity benefit form, whether as the normal form of benefit or as an optional form which the plan member or his or her designated beneficiary elects, the nonannuity benefit form shall be adjusted to an annual benefit as described in subsections (d) and (e) of this Code section. No actuarial adjustment to the nonannuity benefit form shall be required for:

(1) The value of a qualified joint and survivor annuity;

(2) The value of benefits that are not directly related to retirement benefits, such as a disability benefit, preretirement death benefits, and postretirement medical benefits; or

(3) The value of postretirement cost-of-living increases provided that the amount payable to the plan member under the nonannuity benefit form in any limitation year shall not be greater than the Section 415(b) of the federal Internal Revenue Code limit applicable at the annuity starting date as increased in subsequent years pursuant to Section 415(d) of the federal Internal Revenue Code and Section 1.415(d)-1 of the Treasury Regulations. The determination of the annual benefit shall disregard benefits attributable to employee contributions or rollover contributions or the assets transferred from a qualified plan that was not maintained by an employer.

(d) If the annual benefit commences when the plan member has fewer than ten years of participation in the applicable public retirement or pension system or any predecessor public retirement or pension system, the dollar limitation shall be reduced by one-tenth for each year less than ten, but in no event shall be less than one-tenth of the unreduced dollar limitation.

(e)(1) If the payment of benefits under the public retirement or pension system commences before age 62 or after age 65, the dollar limitation shall be adjusted as the actuarial equivalent of the dollar limitation payable at age 62 or age 65, as follows:

(A) If the age at which the benefit is payable is less than 62, the dollar limitation shall be reduced to reflect the lesser of the following calculations:

(i) Reduce the dollar limitation using the interest rate and mortality table or tabular factors, as applicable, which are set forth in the public retirement or pension system for the reduction of benefits for early retirement benefits; or

(ii) Reduce the dollar limitation using 5 percent interest and the applicable mortality table;

(B) For limitation years beginning before January 1, 2002, nothing in this paragraph shall reduce the applicable dollar limitation below \$75,000.00 if the annual benefit begins at or after age 55; and

(C) For limitation years beginning before January 1, 2002, if the annual benefit begins before age 55, nothing in this paragraph shall reduce the dollar limitation below the actuarial equivalent of the \$75,000.00 limitation for age 55.

(2) If a plan member is a qualified member as such term is defined under Section 415(b)(2)(G) of the federal Internal Revenue Code, he or she may retire before age 62 without a reduction in the dollar limitation if at least 15 years of service is required to receive a full benefit under the public retirement or pension system.

(3) If the age at which the benefit is payable is greater than age 65, the age-adjusted dollar limitation shall be determined by increasing the dollar limitation on an actuarially equivalent basis. The increased age-adjusted dollar limitation shall be the amount computed using 5 percent interest and the applicable mortality table."

SECTION 8.

Said title is further amended by adding four new Code sections to read as follows:

"47-1-83.

(a) Notwithstanding anything in this Code section to the contrary, the annual benefit payable to a plan member shall not be deemed to exceed the limits of Section 415 of the federal Internal Revenue Code if the annual benefit payable to the plan member under a public retirement or pension system does not exceed \$10,000.00 for the plan year or any prior plan year and the employer has not at any time maintained a defined contribution plan in which the plan member participated.

(b) Notwithstanding anything contained in this Code section to the contrary, the adjustment prescribed by this Code section for benefits that commence before age 62 and the reduction described in this Code section for fewer than ten years of participation shall not apply to any benefit paid from a public retirement or pension system on account of a plan member's becoming disabled by reason of personal injuries or sickness or to amounts received by a designated beneficiary as a result of the plan member's death. This subsection shall be interpreted in accordance with Section 415(b)(2)(I) of the federal Internal Revenue Code and any regulations promulgated thereunder.

(c) For purposes of applying the limits under Section 415(b) of the federal Internal Revenue Code, a plan member's maximum permissible amount shall be applied taking into consideration cost-of-living increases as required by Section 415(b) of the federal Internal Revenue Code and applicable Treasury Regulations.

(d) In no event shall a plan member's annual benefit payable in any limitation year from a retirement or pension system be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the federal Internal Revenue Code and regulations promulgated thereunder. If the form of benefit without regard to the automatic benefit increases feature is not a straight life annuity, then the preceding sentence is applied by reducing the Section 415(b) of the federal Internal Revenue Code limit applicable at the annuity starting date to an actuarially equivalent amount, to be determined by using the assumption specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the death benefit under the form of benefit.

47-1-84.

(a) Notwithstanding any other provision of this title to the contrary, the board of trustees of a retirement or pension system may modify a request by a plan member to make a contribution to the public retirement or pension system if the amount of the contribution would exceed the limits provided under Section 415 of the federal Internal Revenue Code by using the following methods:

(1) If the law requires a lump sum payment for the purchase of service credit, the board of trustees may establish a periodic payment plan for the plan member to avoid a contribution in excess of the limits under Section 415(c) or 415(n) of the federal Internal Revenue Code; and

(2) If the payment plan pursuant to paragraph (1) of this subsection will not avoid a contribution in excess of the limits, the board of trustees may refuse the plan member's contribution.

(b) For any plan member who first became a plan member in the public retirement or pension system before January 1, 1998, the limitation of Section 415(c)(1) of the federal Internal Revenue Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under state law on August 5, 1997.

47-1-85.

(a) The assets of a public retirement or pension system shall be held in trust, and it shall not be possible at the time prior to satisfaction of all liabilities to plan members and their beneficiaries under the public retirement or pension system for any part of said assets to

be used for, or diverted to, purposes other than for the exclusive benefit of plan members and their designated beneficiaries and for paying reasonable expenses of the public retirement or pension system and trust fund.

(b) The board of trustees of a public retirement or pension system shall not engage in a transaction prohibited by Section 503(b) of the federal Internal Revenue Code.

47-1-86.

Any other provision of this chapter to the contrary notwithstanding, to the extent that the Board of Trustees of the Georgia Municipal Employees Benefit System created by Chapter 5 of this title has adopted a plan document or rules and regulations that are in compliance with Sections 401(a) and 414(d) and other applicable sections of the federal Internal Revenue Code, such plan document or rules and regulations shall govern such system notwithstanding any conflicting provision in this chapter; provided, however, that the provisions of Code Section 47-1-13 shall in any event apply to said system."

SECTION 9.

Said title is further amended by revising paragraph (1) of Code Section 47-2-1, relating to definitions relative to the Employees' Retirement System of Georgia, as follows:

"(1) 'Accumulated contributions' means the sum of all the amounts deducted from the earnable compensation of a member and or paid by the member to establish or reestablish credit for service, which amounts are credited to ~~his~~ the member's individual account in the annuity savings fund, together with regular interest thereon. Beginning July 1, 1980, 'accumulated contributions' also includes the amount of employee contributions paid by the employer on behalf of the employee and credited to the employee's individual account in the annuity savings fund, together with regular interest thereon, excluding employee contributions paid by the employer or the employee for group term life insurance."

SECTION 10.

Said title is further amended by revising paragraph (15) of Code Section 47-2-1, relating to definitions relative to the Employees' Retirement System of Georgia, as follows:

"(15) 'Earnable compensation' means the full rate of regular compensation payable to a member employee for his or her full normal working time, excluding any supplements from local funds. In cases where compensation includes maintenance, the board of trustees shall fix the value of that part of the compensation not paid in cash. Such term shall include contributions made to a qualified transportation plan, within the meaning of Section 132(f) of the federal Internal Revenue Code, and before tax or salary deferral contributions made under Sections 125, 401(k), 402(g)(3), 457, or 414(h) of the federal

379 Internal Revenue Code to this retirement system or to any other retirement plan
380 maintained by an employer."

381 **SECTION 11.**

382 Said title is further amended by revising paragraph (17) of Code Section 47-2-1, relating to
383 definitions relative to the Employees' Retirement System of Georgia, as follows:

384 "(17) 'Employer' means:

385 (A) The state or any department, bureau, institution, board, or commission of the state
386 or any county, city-county, or city board, the employees of which are under a state
387 merit system of personnel administration, including a merit system for employees of
388 the Department of Public Safety, and all state departments under a tenure system as
389 established by law, provided that such county, city-county, or city board may notify the
390 board of trustees that it will not participate in the benefits of the retirement system, such
391 notice to be given in writing on or before the commencement date or before persons are
392 employed by it. Any employee of a county, city-county, or city board having an
393 existing local retirement system may elect to continue to participate in such existing
394 local system but shall not participate in two systems, and his or her election shall be
395 final on the commencement date under this chapter. Any county, city-county, or city
396 employee who elects to become a member of this retirement system and who was a
397 member of an existing local retirement system shall transfer to the board of trustees any
398 equity he or she has in the local system.

399 (B) Any other provisions of law to the contrary notwithstanding, the adjutant general
400 is authorized, though not directed, to establish a merit system and to perform all of the
401 duties and obligations of an 'employer' for all civilians employed in or with the Army
402 National Guard of Georgia and the Air National Guard of Georgia, even though such
403 employees may be paid with federal funds. The adjutant general is further authorized
404 to make and enter into such agreements and take such actions as are necessary to
405 provide for all contributions and payments specified in this chapter, from funds made
406 available by the federal government, and otherwise to comply with this chapter so as
407 to make this chapter applicable to such civilian employees.

408 (C) 'Employer' shall include any new state agency described under Code Section
409 47-2-70.1 and any other entity authorized by law to report any of its employees as
410 members of this system."

SECTION 12.

Said title is further amended by revising Code Section 47-2-1, relating to definitions relative to the Employees' Retirement System of Georgia, by adding two new paragraphs to read as follows:

"(16.6) 'Employee' shall not include an individual classified by an employer as an independent contractor or a leased employee within the meaning of Section 414(n) of the federal Internal Revenue Code, even if such individual is later reclassified by the Internal Revenue Service as a common law employee."

"(28.1) 'Plan year' means the 12 month period beginning on July 1 of each year."

SECTION 13.

Said title is further amended by adding a new Code section to read as follows:

"47-2-33.

For purposes of complying with federal Internal Revenue Service rules and regulations, the plan year for this retirement system shall be the 12 month period beginning on July 1 of each year."

SECTION 14.

Said title is further amended by revising Code Section 47-2-54, relating to employee contributions under the Employees' Retirement System of Georgia, by adding a new subsection to read as follows:

"(j) The employee contributions described in this Code section that are credited to the member's annuity savings account, although designated as employee contributions, are being paid by the employer as 'pick-up' contributions in accordance with Section 414(h) of the federal Internal Revenue Code. As such, these contributions are mandatory and no member is entitled under any circumstances to receive such contributions in cash in lieu of having them contributed to the retirement system. Such contributions shall be 100 percent vested for all purposes under the retirement system."

SECTION 15.

Said title is further amended by revising subsection (a) of Code Section 47-2-70.1, relating to employees of new state agencies, as follows:

"(a) As used in this Code section, the term:

(1) 'Employee' means full-time officers and employees of a new state agency; provided, however, that such term shall not mean an individual classified by an employer as an independent contractor or a leased employee within the meaning of Section 414(n) of the

Internal Revenue Code, even if such individual is later reclassified by the Internal Revenue Service as a common law employee.

(2) 'Employer' means a new state agency paying the compensation of an employee.

(3) 'New state agency' means any department, division, board, bureau, commission, institution, or other agency of the state or any state public authority which first becomes established or active on or after July 1, 1992.

(4) 'State public authority' means any public authority or public corporation created by general law to carry out state purposes or functions, and the term does not include public authorities created by general law to carry out purposes or functions within or on behalf of counties, municipalities, or other political subdivisions and which are activated by action of individual political subdivisions."

SECTION 16.

Said title is further amended by revising Code Section 47-2-92, relating to reestablishment of service credit after withdrawal of accumulated contributions from this retirement system or the Teachers Retirement System of Georgia and payments required to obtain credits, as follows:

"47-2-92.

Any present member who has withdrawn accumulated contributions from either the Employees' Retirement System of Georgia or the Teachers Retirement System of Georgia, or both, may, after two years of service as a contributing member, reestablish the creditable service for which the member would have been eligible if the accumulated contributions had not been withdrawn, provided that the member repays into the retirement system an amount equal to the amount withdrawn, together with regular interest at the rate of 4 1/4 percent per annum from the date of withdrawal to the date of repayment, which contributions and interest shall be placed in the pension accumulation fund participant's individual account in the annuity savings fund. Upon receipt of notice from this retirement system to the Teachers Retirement System of Georgia that a member has repaid to this retirement system contributions previously withdrawn from the Teachers Retirement System of Georgia, the Teachers Retirement System of Georgia shall pay an employer contribution plus regular interest into the Employees' Retirement System of Georgia. The amount of the employer contribution shall be 6 percent of the reported compensation of the member during membership in the Teachers Retirement System of Georgia."

SECTION 17.

Said title is further amended by revising Code Section 47-2-110, relating to retirement ages, application and eligibility for a retirement allowance, suspension of retirement allowance upon reemployment, and health benefits, as follows:

"47-2-110.

(a)(1) Upon written application to the board of trustees, any member in service who has reached 60 years of age or who has 30 years of creditable service may retire on a service retirement allowance, provided that he or she has at least five years of creditable service; provided, further, that if he or she became a member after July 1, 1968, he or she has at least ten years of creditable service. The effective date of retirement shall be the first of the month in which the application is received by the board of trustees, provided that no retirement application will, in any case, be effective earlier than the first of the month following the final month of the applicant's employment. Applications for retirement will not be accepted more than 90 days in advance of the effective date of retirement. Separation from service pending approval of the retirement application shall not affect eligibility for a retirement allowance. The provisions of this subsection regarding the effective date of retirement shall apply to all persons making application for retirement on or after March 15, 1979, and to all persons who have made application prior to March 15, 1979, but to whom payments from the retirement system have not commenced as of that date. Each employer shall certify to the board of trustees the date on which the employee's employment is or will be severed and that no agreement exists to allow the employee to return to service, including service as or for an independent contractor. Any return to employment or rendering of any paid service, including service as or for an independent contractor, for any employer within two consecutive calendar months of the effective date of retirement shall render the severance invalid, nullifying the application for retirement.

(2) Normal retirement age, for purposes of the retirement system, shall be the date the employee has reached 60 years of age, provided that he or she has at least ten years of creditable service or the age of an employee on the date he or she attains 30 years of creditable service; provided, however, that the provisions of this paragraph are subject to change by future legislation in order to comply with federal regulations. For those members who are in service with the Uniform Division of the Department of Public Safety as an officer, noncommissioned officer, or trooper, officers and agents of the Georgia Bureau of Investigation, conservation rangers of the Department of Natural Resources, or in the Department of Revenue as an alcohol and tobacco officer or agent, normal retirement age shall be the date the employee has reached 55 years of age, provided that he or she has at least ten years of creditable service. For purposes of

513 Section 402(l) of the federal Internal Revenue Code regarding distributions from
514 governmental plans for health and long-term care insurance for public safety officers,
515 normal retirement age shall be the earliest date when the employee has satisfied the
516 requirements for a retirement allowance under the retirement system. Except as provided
517 under Article 2 of Chapter 1 of this title, a member's right to his or her retirement
518 allowance is nonforfeitable upon attainment of normal retirement age.

519 (b)(1) Effective July 1, 1983, no member of the retirement system may be required to
520 retire because of age except the following members:

521 (A) Those employed as prison guards by the Department of Corrections;

522 (B) Those employed by the Uniform Division of the Department of Public Safety as
523 officers and troopers;

524 (C) Those employed by the Department of Natural Resources as conservation rangers;

525 (D) Those employed by the Department of Revenue as alcohol and tobacco officers or
526 agents;

527 (E) Those employed as officers or agents of the Georgia Bureau of Investigation;

528 (F) Those employed by the Department of Transportation as enforcement officers prior
529 to July 1, 2001;

530 (G) Those employed by the Department of Motor Vehicle Safety as enforcement
531 officers on or after July 1, 2001; and

532 (H) Those employed by the State Board of Pardons and Paroles as parole officers as
533 well as other employees of said board who possess the power of arrest.

534 (2) Those members specified by paragraph (1) of this subsection who may be required
535 to retire because of age shall be subject to the laws specifying retirement ages for the
536 various classifications of such members or subject to the rules, regulations, or policies
537 specifying retirement ages of the various state departments or agencies employing such
538 members, provided such rules, regulations, or policies are in compliance with other laws
539 of this state. Any state department or agency specified in paragraph (1) of this subsection
540 shall be authorized to employ or continue the employment of any member, regardless of
541 age, with professional, scientific, or technical skills who is so certified to the board of
542 trustees by the state department or agency.

543 (c)(1) As used in this subsection, in addition to the definition provided in Code Section
544 47-2-1, the term 'employer' shall also include the retired member's last employer which
545 reported to the retirement system prior to the member's effective date of retirement. Such
546 term shall also include the Board of Regents of the University System of Georgia.

547 (2) Except as provided in this subsection, if a member accepts paid employment with or
548 renders services for pay to any employer, including, without limitation, service directly
549 or indirectly as or for an independent contractor, after his or her retirement, payment of

his or her retirement allowance shall be suspended and no contributions to the retirement system shall be made on account of such service either by that member or his or her employer, provided that, upon termination of such service, all rights shall vest in that member as if he or she had continued his or her option to retire.

~~(2)~~(3) The retirement allowance of a retired member who accepts employment with or renders services to any employer after his or her retirement shall not be suspended if the employee has attained normal retirement age or has not been employed by or rendered service for any employer for at least two consecutive calendar months and performs no more than 1,040 hours of paid employment or paid service, including, without limitation, service as or for an independent contractor, for the employer in any calendar year; provided, however, that ~~no such employee so employed shall be eligible for employee health benefits other than those available to the member as a part of his or her retirement benefits or for any annual leave, any sick leave, or any other employee benefit available to a state employee in the classified service of the State Merit System of Personnel Administration established by Chapter 20 of Title 45.~~

~~(3) The retirement benefits of a retired member who retired on a normal service retirement with at least ten years of actual service as an officer or trooper of the Uniform Division of the Department of Public Safety shall not be suspended if he or she accepts full-time or part-time employment with the Department of Public Safety or the Department of Motor Vehicle Safety as a radio operator or a driver's license examiner; provided, however, that this paragraph shall cease to apply on or after July 1, 2007. No such employee so employed shall be eligible for employee health benefits other than those available to the member as a part of his or her retirement benefits or for any annual leave, any sick leave, or any other employee benefit available to a state employee in the classified service of the State Merit System of Personnel Administration established by Chapter 20 of Title 45. No employer or employee contributions to this retirement system shall be paid for or on behalf of any such member. The salary paid to any such person shall be commensurate with the position for which he or she is employed with credit for no more than five years of prior experience.~~

(4) Any employer that employs a retired plan member shall within 30 days of the employee's accepting employment notify the board of trustees in writing stating the name of the plan member and the number of hours the employee is expected to work annually and shall provide such other information as the board may request. If the retired plan member performs more than 1,040 hours in any calendar year, the employer shall so notify the board of trustees as soon as such information is available. Any employer that fails to notify the board of trustees as required by this subsection shall reimburse the retirement system for any benefits wrongfully paid. It shall be the duty of the retired plan

member seeking employment by the employer to notify the employer of his or her retirement status prior to accepting such position. If a retired plan member fails to so notify the employer and the employer becomes liable to the retirement system, the plan member shall hold the employer harmless for all such liability.

(d) The board of trustees is authorized to provide by rule or regulation for the payment of benefits to members or beneficiaries of the retirement system at a time and under circumstances not provided for in this chapter to the extent that such payment is required to maintain the retirement system as a 'qualified retirement plan' for the purposes of federal income tax laws."

SECTION 18.

Said title is further amended by revising subsection (d) of Code Section 47-2-120, relating to retirement allowances, as follows:

"(d) Anything in this chapter to the contrary notwithstanding, any member ~~with~~ whose current membership began prior to July 1, 1982, and who has at least 34 years of service shall be eligible to retire forthwith and upon retirement shall be paid not less than the service retirement allowance which would have been payable upon service retirement at the age of 65 had ~~he~~ the member continued in service without further change in compensation."

SECTION 19.

Said title is further amended by revising Code Section 47-2-122, relating to vesting of rights to a retirement allowance despite early retirement and retirement allowance payable to such persons, as follows:

"47-2-122.

Except as provided in Article 2 of Chapter 1 of this title, a member's accumulated contributions shall be 100 percent vested and nonforfeitable at all times. The right to a service retirement allowance under this chapter shall vest in any member who withdraws from service with at least ten years of membership service subsequent to January 1, 1954, although ~~he~~ the member has not yet attained 60 years of age, provided that ~~he~~ the member has not withdrawn ~~his~~ the member's contributions. Such member shall become entitled to a service retirement allowance (1) upon filing an application as provided in Code Section 47-2-110 and (2) upon attaining the age of 60 or, at ~~his~~ the member's option, at any time subsequent thereto after filing such application. The retirement allowance in the case of any such member shall be the monthly amount ~~he~~ the member would have received had ~~he~~ the member retired on the last day ~~he~~ the member contributed to the retirement system and at that time had been the same age as when ~~he~~ the member actually retired. If a member

with vested rights dies before reaching age 60, ~~his~~ the member's accumulated contributions shall be paid to ~~his~~ the member's named living beneficiary, otherwise to ~~his~~ the member's estate."

SECTION 20.

Said title is further amended by revising paragraph (1) of Code Section 47-4-2, relating to definitions relative to the Public School Employees Retirement System, as follows:

"(1) 'Accumulated contributions' means ~~an employee's contributions~~ the sum of all of the amounts deducted from the earnable compensation of a member and paid by the member to establish or reestablish credit for service, which amounts are credited to the member's individual account in this retirement system, together with regular interest thereon."

SECTION 21.

Said title is further amended by adding a new Code section to read as follows:

"47-4-30.

For purposes of complying with federal Internal Revenue Service rules and regulations, the plan year for this retirement system shall be the 12 month period beginning on July 1 of each year."

SECTION 22.

Said title is further amended by revising subsection (e) of Code Section 47-4-100, relating to normal, early, and delayed retirement and vesting of a right to a retirement benefit under the Public School Employees Retirement System, as follows:

"(e) The right to a retirement benefit under this chapter shall vest in a member who has ten or more years of creditable service if ~~he~~ the member has not withdrawn ~~his~~ the member's contributions. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's accumulated contributions shall be 100 percent vested and nonforfeitable at all times. A member shall be 100 percent vested in all benefits under the plan upon attainment of normal retirement age. Upon attaining his the member's normal retirement age or ~~his~~ the member's early retirement age, ~~he~~ the member shall begin receiving the appropriate retirement benefit provided by Code Section 47-4-101."

SECTION 23.

Said title is further amended by adding a new Code section to read as follows:

"47-4-106.

If any retired member who has not yet reached normal retirement age returns to service as a public school employee in any position which normally requires membership in this

retirement system, such member's retirement benefit shall cease and the retired member shall reestablish active membership in this retirement system. The member shall have the same creditable service which the member possessed at the time of retirement and shall accumulate additional creditable service so long as such active membership continues. Upon cessation of such service, the retired member, after proper notification to the board, shall receive a retirement benefit based on the member's total accrued service."

SECTION 24.

Said title is further amended by revising paragraph (1) of Code Section 47-6-1, relating to definitions relative to the Georgia Legislative Retirement System, as follows:

"(1) 'Accumulated contributions' means the sum of all amounts deducted from the compensation of a member ~~and~~ or paid by the member to establish or reestablish credit for service, which amounts are credited to his or her individual account in the system, together with regular interest thereon. Beginning on January 12, 1981, this term shall include the amount of employee contributions paid by the employer on behalf of members, together with regular interest thereon, excluding employee contributions paid by the employer for group term life insurance coverage."

SECTION 25.

Said title is further amended by adding a new Code section to read as follows:

"47-6-25.

For purposes of complying with federal Internal Revenue Service rules and regulations, the plan year for this retirement system shall be the 12 month period beginning on July 1 of each year."

SECTION 26.

Said title is further amended by revising subsection (c) of Code Section 47-6-80, relating to eligibility and application for a retirement allowance, early retirement, amount of retirement allowance, and increases in retirement allowance, as follows:

"(c) Normal retirement age for a member with at least eight years of membership service shall be the date the member has reached 62 years of age. Normal retirement age for a member with less than eight years of membership service but with at least eight years of creditable service shall be the date the member has reached 65 years of age. Any member of the system who has completed eight or more years of membership service and who has attained age 60 may elect to retire prior to age 62, provided that in such event, ~~his~~ the member's retirement allowance shall be reduced by 5 percent for each year below age 62."

SECTION 27.

Said title is further amended by revising Code Section 47-6-84, relating to termination of retirement allowance upon return to service and retirement benefits for retired members returning to service in the General Assembly, as follows:

"47-6-84.

(a)(1) Except as provided in paragraph (2) of this subsection, if any retired member who has not yet reached normal retirement age returns to the service of the state in any position, including, without limitation, service directly or indirectly as or for an independent contractor, except as a member of the General Assembly, his the member's retirement allowance shall cease. Upon cessation of such service, the retired member, after proper notification to the board, shall receive the same retirement allowance which he the member was receiving prior to returning to state service.

(2) Notwithstanding any other provisions in this chapter to the contrary, the retirement allowance of a retired member who has reached normal retirement age or has not been employed by or rendered service for the state and who returns to the service of the state in any position, including, without limitation, service directly or indirectly as or for an independent contractor, other than as a member of the General Assembly shall not cease provided that such member performs no more than 1,040 hours of such service in any calendar year; ~~provided, however, that no such retired member shall be eligible for employee health benefits other than those available to the member as a part of his retirement benefits or for any annual leave, any sick leave, or any other employee benefits available to a state employee in the classified service of the State Merit System of Personnel Administration.~~

(b)(1) If a retired member returns to service as a member of the General Assembly after the member has reached normal retirement age, the retired member may either continue to receive a retirement benefit while serving as a member of the General Assembly or reestablish active membership in the retirement system. If the election is to reestablish active membership in the retirement system, the member shall have the same creditable service which the member possessed at the time of retirement and shall accumulate additional creditable service ~~as~~ so long as such active membership continues. Except as otherwise provided by paragraph (2) of this subsection, a retired member who returns to service in the General Assembly shall make the election provided for in this paragraph within 30 days after taking office. Such election shall be made in writing to the board of trustees and shall be irrevocable. If a retired member returns to service as a member of the General Assembly before the member has reached normal retirement age, the retired member shall reestablish active membership in the retirement system. The member shall have the same creditable service which the member possessed at the time of retirement

725 and shall accumulate additional creditable service so long as such active membership
726 continues.

727 (2) A retired member who returned to service in the General Assembly prior to the
728 existence of the option to reestablish active membership in the retirement system shall
729 have the right to make the election provided for in paragraph (1) of this subsection at any
730 time prior to January 1, 1991. In addition to creditable service provided for in
731 paragraph (1) of this subsection, any such retired member who elects to reestablish active
732 membership in the retirement system may obtain creditable service for service in the
733 General Assembly rendered from the time of returning to service in the General
734 Assembly until the date of reestablishing active membership in the retirement system.
735 In order to obtain such creditable service, the member shall pay to the board of trustees
736 the employee contributions which would have been paid to the retirement system during
737 the period for which such creditable service is claimed, plus regular interest thereon
738 compounded annually from the time the service in the General Assembly was rendered
739 until the date of payment."

740 **SECTION 28.**

741 Said title is further amended by revising Code Section 47-6-85, relating to refund of
742 accumulated contributions upon termination of membership, as follows:

743 "47-6-85.

744 Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's
745 accumulated contributions shall be 100 percent vested and nonforfeitable at all times.

746 Upon the request of a member who ceases to be a member of the system for reasons other
747 than retirement or death, ~~he~~ the member shall be paid ~~his~~ the member's accumulated
748 contributions as soon as feasible after such request. If ~~he~~ the member dies before payment
749 has been made, the amount of ~~his~~ the member's accumulated contributions shall be paid to
750 such person as ~~he~~ the member has nominated by written designation filed with the board,
751 otherwise to ~~his~~ the member's estate."

752 **SECTION 29.**

753 Said title is further amended by revising Code Section 47-22-1, relating to definitions relative
754 to the Georgia Deferred Contribution Plan, by adding new paragraph to read as follows:

755 "(8) 'Plan year' means the 12 month period beginning July 1 of each year."

SECTION 30.

Said title is further amended by revising Code Section 47-22-9, relating to payment of lump sum on termination of employment and continued accrual of earnings absent request for lump sum payment, as follows:

"47-22-9.

(a) Upon the written request of a member who ceases to be an employee, a lump sum amount shall be paid to such person equal to the total amount credited to such member's account at the time the member ceases to be an employee. If such member dies before payment has been made, such payment shall be made to such person as the member has nominated, by written designation filed with the board; otherwise to the member's estate. If no such request is made, the member's account shall continue to accrue earnings in the same manner as any member's account; ~~provided, however, that,~~

(b) Notwithstanding the provisions of subsection (a) of this Code section, if any member who ceases to be an employee has less than such minimum amount as determined by the board, but not more than \$5,000.00, credited to such member's account, the board may, at its option, require such member to withdraw all such moneys and the member's account shall be closed; provided, however, that the board's option to require withdrawal of small account balances shall be applied in a consistent manner; provided, further, that if the board provides for mandatory distributions of account balances greater than \$1,000.00 and if a member does not elect to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover or to receive the distribution directly, the plan shall pay the distribution in a direct rollover to an individual retirement plan designated by the board in accordance with Section 401(a)(31)(B) of the federal Internal Revenue Code.

(c) Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's account balance in the plan shall at all times be 100 percent vested and nonforfeitable."

SECTION 31.

Said title is further amended by revising Code Section 47-23-1, relating to definitions relative to the Georgia Judicial Retirement System, as follows:

"47-23-1.

As used in this chapter, the term:

(1) 'Accumulated contributions' means the sum of all amounts deducted from the earnable compensation of a member or paid by the member to establish or reestablish credit for service, which amounts are credited to his or her individual account together with regular interest thereon. Such term shall also include the amount of employee contributions paid by the employer on behalf of members, together with regular interest

thereon, excluding employee contributions paid by the employer or the employee for group term life insurance coverage.

~~(1)~~(2) 'Average earnable monthly compensation' means the average earnable monthly compensation of a member during the 24 consecutive months of creditable service producing the highest such average.

~~(2)~~(3) 'Beneficiary' means any person other than a retired member of a retirement system who is receiving a benefit from that retirement system.

~~(3)~~(4) 'Board' means the Board of Trustees of the Georgia Judicial Retirement System.

~~(4)~~(5) 'County pension or retirement fund' means only those certain pension and retirement funds provided for by local Acts applicable to certain named counties.

~~(5)~~(6) 'Covered position' means an employment position eligible for membership under this chapter.

~~(6)~~(7) 'Creditable service' means prior service and membership service for which credit is allowable under this chapter, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall it include any service which has been or may be credited to a member by any other public retirement system of this state.

~~(7)~~(8) 'District attorney' means any district attorney holding office on July 1, 1998, and any district attorney taking office on or after July 1, 1998, except that the term district attorney shall not include any district attorney:

(A) Who was serving as a district attorney on June 30, 1998, and who was not a member of the District Attorneys' Retirement System; or

(B) Who is a member of any other publicly supported retirement or pension system or fund created by any law of this state, if the retirement or pension benefits under such other publicly supported retirement or pension system or fund are based wholly or partially on the compensation payable to the district attorney from state funds.

~~(8)~~(9) 'District Attorneys' Retirement System' means that retirement system created by Chapter 13 of this title as such chapter existed prior to July 1, 1998.

~~(9)~~(10) 'Earnable monthly compensation' means the full rate of regular monthly compensation payable to a member employee for his or her full working time, excluding any local supplements.

~~(10)~~(11) 'Fund' means the Georgia Judicial Retirement System Fund provided for by Code Section 47-23-22. The fund shall include, but is not limited to, a pension accumulation fund in which the benefits described in Article 6 of this chapter will be held and an employee contribution accumulation fund in which the contributions described in Article 5 of this chapter will be held.

~~(11)~~(12) 'Judge, solicitor, or solicitor-general of a state court' means a person elected or appointed to such office for a specific term. Such term shall not include any person acting

as a judge or solicitor of a state court on a temporary basis or serving as judge or solicitor-general pro tempore of a state court.

~~(12)~~(13) 'Juvenile court judge' means a juvenile court judge now or hereafter appointed or otherwise holding office pursuant to Code Section 15-11-18 relative to the creation of juvenile courts, except judges of the superior courts sitting as juvenile court judges and juvenile court judges who are members of local retirement or pension systems created by local law.

~~(13)~~(14) 'Predecessor retirement system' means the District Attorneys' Retirement System, the Superior Court Judges Retirement System, and the Trial Judges and Solicitors Retirement Fund, collectively or individually.

~~(14)~~(15) 'Regular interest' means interest at such rate as shall be determined by the board of trustees, which interest shall be compounded annually.

~~(15)~~(16) 'Retirement system' means the Georgia Judicial Retirement System.

~~(16)~~(17) 'State court' means any court created pursuant to the provisions of Chapter 7 of Title 15 or any court continued as a state court by Article VI, Section X of the Constitution of the State of Georgia; provided, however, that such term shall include the State Court of Fulton County subject to the provisions of Code Section 47-23-50.

~~(17)~~(18) 'Superior Court Judges Retirement System' means that retirement system created by Chapter 9 of this title as such chapter existed prior to July 1, 1998.

~~(18)~~(19) 'Trial Judges and Solicitors Retirement Fund' means that retirement fund created by Chapter 10 of this title as such chapter existed prior to July 1, 1998."

SECTION 32.

Said title is further amended by adding a new Code section to read as follows:

"47-23-30.

For purposes of complying with federal Internal Revenue Service rules and regulations, the plan year for this retirement system shall be the 12 month period beginning on July 1 of each year."

SECTION 33.

Said title is further amended by revising Code Section 47-23-102, relating to vesting and benefits upon retirement, as follows:

"47-23-102.

The right of a member to receive benefits under this chapter shall vest after the member obtains ten years of creditable service; provided, however, that no member shall receive a retirement benefit prior to attaining the age of 60 years. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's accumulated contributions shall be 100

percent vested and nonforfeitable at all times. Any member retiring on or after July 1, 1996, and any member who was retired on July 1, 1996, with 16 years or more of creditable service shall receive a benefit equal to 66.66 percent, plus 1 percent for each year of creditable service over 16 years, of the member's salary; provided, however, that no member shall receive more than 24 years of creditable service. Any member retiring with less than 16 years of creditable service may retire at a reduced benefit pursuant to Code Section 47-23-103. Normal retirement age under this retirement system shall be the date the member has reached age 60 years of age, provided that he or she has at least ten years of creditable service. For purposes of Section 402(1) of the federal Internal Revenue Code regarding distributions from governmental plans for health and long-term care insurance for public safety officers, normal retirement age shall be the earliest date when the member has satisfied the requirements for a retirement under this or the predecessor retirement system. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's right to his or her retirement allowance is nonforfeitable upon attainment of normal retirement age. Any member who was retired on July 1, 1996, with more than 16 years of creditable service shall receive in July, 1998, a one-time benefit payment equal to two times the product of 1 percent of the salary paid to such judge at the time of his or her retirement multiplied by the number of years of creditable service in excess of 16 years."

SECTION 34.

Said title is further amended by revising Code Section 47-23-109, relating to cessation of retirement allowance for resuming state service, as follows:

"47-23-109.

(a) Except as provided in subsection (b) of this Code section, if any retired member who has not yet reached normal retirement age returns to the service of the state in any position, including, without limitation, service directly or indirectly as or for an independent contractor, except as a member of the General Assembly, his or her retirement allowance shall cease. Upon cessation of such service, the retired member, after proper notification to the board, shall receive the same retirement allowance which he or she was receiving prior to returning to state service, calculated with any increases granted during the period of compensation.

(b) The retirement allowance of a retired member who has reached normal retirement age and who returns to the service of the state in any position, including, without limitation, service directly or indirectly as or for an independent contractor, other than as a member of the General Assembly shall not cease provided that such member performs no more than 1,040 hours of such service in any calendar year; ~~provided, however, that no such retired member shall be eligible for employee health benefits other than those available to the~~

899 ~~member as a part of his or her retirement benefits or for any annual leave, any sick leave,~~
900 ~~or any other employee benefits available to a state employee in the classified service of the~~
901 ~~State Merit System of Personnel Administration."~~

902 **SECTION 35.**

903 This Act shall become effective upon its approval by the Governor or upon its becoming law
904 without such approval.

905 **SECTION 36.**

906 All laws and parts of laws in conflict with this Act are repealed.